

JIM IRVIN
COMMISSIONER - CHAIRMAN
RENZ D. JENNINGS
COMMISSIONER
CARL J. KUNASEK
COMMISSIONER



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JACK ROSE
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: AUGUST 20, 1998

DOCKET NO.: T-03541A-98-0166

TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer Jane Rodda. The recommendation has been filed in the form of an Order on:

NTS COMMUNICATIONS, INC.
(CC&N/RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

AUGUST 31, 1998

The enclosed is NOT an order of the Commission, but a recommendation of the Hearing Officer to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

SEPTEMBER 15, 1998 and SEPTEMBER 16, 1998

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.


JACK ROSE
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 JIM IRVIN
CHAIRMAN - COMMISSIONER
3 RENZ D. JENNINGS
COMMISSIONER
4 CARL J. KUNASEK
COMMISSIONER
5

6 IN THE MATTER OF THE APPLICATION)
OF NTS COMMUNICATIONS, INC. FOR A)
7 CERTIFICATE OF CONVENIENCE AND))
NECESSITY TO PROVIDE COMPETITIVE)
8 INTERLATA/INTRALATA RESOLD)
TELECOMMUNICATIONS SERVICES)
9 EXCEPT LOCAL EXCHANGE SERVICES.)
_____)

DOCKET NO. T-03541A-98-0166

DECISION NO. _____

ORDER

10 Open Meeting
11 September 15 and 16, 1998
12 Phoenix, Arizona

BY THE COMMISSION:

13 Having considered the entire record herein and being fully advised in the premises, the Arizona
14 Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

16 1. On April 1, 1998, NTS Communications, Inc. ("Applicant") filed with the Commission
17 an application for a Certificate of Convenience and Necessity ("Certificate") to provide resold
18 telecommunications service in the State of Arizona.

19 2. In Decision No. 58926 (December 22, 1994), the Commission found that resold
20 telecommunication providers ("resellers") were public service corporations subject to the jurisdiction of
21 the Commission.

22 3. In Decision No. 59124 (June 23, 1995), the Commission adopted A.A.C. R14-2-1101
23 through R14-2-1115 to regulate resellers.

24 4. Applicant is a Texas corporation, qualified to conduct business in Arizona since 1998.

25 5. Applicant is a switchless reseller which purchases telecommunication services.

26 6. On May 15, 1998, Staff filed a Staff Report, recommending approval of the application
27 without a hearing.

28 7. The Staff Report indicated that Applicant provided audited financial statements for the

1 years ended July 31, 1996 and July 31, 1997. The financial statements indicate Applicant had net income
2 of \$5,034,609 in 1996 and \$9,938,581 in 1997. Applicant reported retained earnings of \$8,286,932 as
3 of July 31, 1996 and \$18,225,513 as of July 31, 1997. Staff believed that Applicant has sufficient
4 financial resources to provide its proposed resold telecommunications services.

5 8. The Staff Report stated that Applicant has no market power and the reasonableness of its
6 rates would be evaluated in a market with numerous competitors.

7 9. Staff recommended that:

8 (a) Applicant's application for a Certificate should be approved subject to A.A.C.
9 R14-2-1106.B;

10 (b) Applicant's intrastate toll service offerings should be classified as competitive
pursuant to A.A.C. R14-2-1108;

11 (c) Applicant's competitive services should be priced at the effective rates set forth
12 in Applicant's tariffs and the maximum rates for these services should be the maximum
13 rates proposed by Applicant in its tariffs. The minimum rates for Applicant's competitive
services should be Applicant's long run incremental costs of providing those services as
set forth in A.A.C. R14-2-1109; and

14 (d) Applicant should be required to comply with the Commission's rules and modify
15 its tariffs to conform with these rules, if it is determined that there is a conflict between
Applicant's tariffs and the Commission's rules.

16 10. By Procedural Order dated June 26, 1998, the Commission set a deadline of August 7,
17 1998, for filing exceptions to the Staff Report; requesting that a hearing be set; or requesting intervention
18 as interested parties.

19 11. No exceptions were filed to the Staff Report, nor did any party request that a hearing be
20 set, nor were any requests for intervention filed with Docket Control.

21 CONCLUSIONS OF LAW

22 1. Applicant is a public service corporation within the meaning of Article XV of the Arizona
23 Constitution and A.R.S. §§ 40-281 and 40-282.

24 2. The Commission has jurisdiction over Applicant and the subject matter of the application.

25 3. Notice of the application was given in accordance with the law.

26 4. The provision of competitive interLATA/intraLATA reseller services in Arizona by
27 Applicant is in the public interest.

28 5. Applicant is a fit and proper entity to receive a Certificate for providing competitive

interLATA/intraLATA reseller services in Arizona.

6. Staff's recommendations in Findings of Fact No. 9 are reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the application of NTS Communications, Inc. for a Certificate of Convenience and Necessity for authority to provide competitive interLATA/intraLATA resold telecommunications services except local exchange services shall be, and the same is, hereby granted.

IT IS FURTHER ORDERED that NTS Communications, Inc. shall comply with the Staff recommendations set forth in Findings of Fact No. 9.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

COMMISSIONER - CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, JACK ROSE, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 1998.

JACK ROSE
EXECUTIVE SECRETARY

DISSENT _____
JR:dap

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SERVICE LIST FOR: NTS COMMUNICATIONS, INC.

DOCKET NO.: T-03541A-98-0166

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